

# Tombstone Epitaph

THE PIONEER NEWSPAPER OF COCHISE COUNTY

VOLUME XXXXII

TOMBSTONE, COCHISE COUNTY, ARIZONA, SUNDAY, FEBRUARY 12, 1922

NUMBER 11

## FARM LOANS BY THE STATE ARE HALTED

**ERROR BY BOARD CAUSES DECISION TO DISCONTINUE AID FOR INDEFINITE PERIOD, ACCORDING TO ANNOUNCEMENT MADE BY STATE BOARD AT PHOENIX YESTERDAY.**

PHOENIX, Ariz., Feb. 10. — Farm loans by the state will be discontinued until \$580,000 erroneously loaned has been repaid to various funds. It was announced today by the state loan board, comprised of the governor, the secretary of state and the state treasurer. It may require several years to repay the amount, it was explained, as only the proceeds from the sale of state lands can be used for this purpose.

The state's plight, it was declared, is due to the action of the old state land department in crediting interest money to the permanent fund instead of to the institutions as specified in the enabling act. This will necessitate a transfer of funds, as soon as there are sufficient on hand to make a change in the accounts.

While today's action will forestall any further loans in the immediate future, it was stated, Arizona taxpayers as a whole will benefit as this transfer will correspond approximately to a 10 per cent reduction in the tax levy.

Through the enabling act, the federal government made several grants of land to the state for its institutions, the proceeds from the sale of lands alone to become a permanent fund and the interest earned, together with the rentals on unsold lands, to be used for the maintenance of the institutions for which the grants were made. The land department, however, prior to January 1, 1921, it was said, in making remittances, included the interest collected by it on deferred payments. It is pointed out that the interest payments should have been permitted separately and credited to the institutions for which the land grants were made.

The state loan board today asserted in order to comply with provisions of the enabling act, the reimbursement of this interest money will have to be made as soon as sufficient funds can be accumulated.

Discovery that the funds had not been properly credited was made by Rudolph Kuchler, state land commissioner, shortly after he assumed charge of the land department.

### ARIZONA PIONEER DEAD

PRESCOTT, Feb. 10.—J. W. Heninger, 80, an inmate since 1914 of the Pioneer's home here, died late today in the institution. He was a native of Cumberland county Pennsylvania, and established his first Arizona residence in Tombstone in 1886, remaining in Cochise county until he was admitted to the home.

Although the above news dispatches was sent from Prescott it is not thought by local people that the Heninger named was the former Tombstone man, who operated here both in mining and conducted the famous old Can Can restaurant. John Hanninger was his name and he has been residing at Blythe, Cal., where he was conducting a butcher shop, not having been in the Pioneer's home.

Globe—El Capitan mine to increase capacity of mill from 50 to 150 tons.

## H. S. Ross Is Found Not Guilty By Phoenix Jury

PHOENIX, Ariz., Feb. 10. — Harry S. Ross, former state treasurer, today was acquitted by a jury of a charge of conspiracy. He was indicted jointly with Phil K. Lewis, former head of the Central Bank of Wickenburg, accused of having conspired to obstruct the administration of the state laws by depositing in that bank more funds than the bonds of the institution, as a state depository, permitted. The indictment also alleged that the state failed to receive all the interest due on the deposits. Lewis has not yet been tried.

## CONSTRUCTION OF FORT LOBOS ROAD TO BEGIN SOON

NOGALES, Ariz., Feb. 10.—According to information given out by Congressman Serrano of Sonora, work will begin this year on the construction of a road from Nogales to Port Lobos, via the famous Altar District.

The construction of this highway, it was stated today by a Chamber of Commerce official, will mean more to Nogales than even the 1000-mile highway from Nogales down the west coast, on which work is to start next month.

Federal aid from the Mexican government, has been obtained for the Port Lobos road. Port Lobos is 130 miles southwest of Nogales, and the new road will pass through Saric, Tubutama, Altar, Caborca, and other towns of that rich and prosperous part of Mexico.

When this highway is completed it will mean the bringing to Nogales of business that now goes to Tucson, on account of poor highway connections between Nogales and Altar. All the business of the Altar District, amounting to \$400,000 annually, now goes to Tucson, it was said today.

The route for the road follows closely along that of the proposed railroad from Nogales to Port Lobos, and will be used as a military highway, as well as a road for auto trucks, and other vehicles owned by private individuals.

Construction of the highway will mean that the people of the Altar district will have a market at Nogales, seventy miles closer, than the market at Tucson.

When this highway, and the 1,000 mile road, are completed, there will be a loop, on which auto tourists will find seven ancient missions.

### JURY IN NEGRO TROOPER'S CASE FAILS TO AGREE

After being out for nearly 24 hours the jury trying Benjamin Bettis, a negro soldier formerly stationed at Fort Huachuca, who was charged with murder, reported that it was not able to agree, and was discharged by Judge William H. Sawtelle in the United States district court at Tucson.

Bettis was accused of having killed George H. Garrison on the military reservation of Fort Huachuca, April 5, 1921. When he took the stand on his own behalf Wednesday, Bettis admitted that, so far as he knew, he was the last man seen with Garrison on the night of the killing, but declared that he did not do the shooting. He said that he left Garrison about one hour before the time the tragedy is said to have occurred.

## Says Solons Lose Job If They Take Other Position

PHOENIX, Feb. 10.—If a member of the legislature holds an office created by the constitution or by statute for the state he automatically loses his membership in the law-making body.

An opinion to this effect was rendered today by the office of the attorney general, responding to the question "do members of the legislature lose such membership upon accepting public employment, and, if so, what kinds of employment should be included?"

The opinion was written by Judge F. W. Perkins, who sacrificed his membership in the fifth state legislature when he became an assistant attorney general. He said neither the constitution or the statutes define public office, but he pointed out that all positions under the state government did not necessarily mean that the holders were ineligible to serve in the legislature. State employees, he said, do not come under the designation of state officials. In this connection he referred to the cases of W. E. Remington, now employed by the state land department, and Charles Pishon, connected with the state auditor's office. Neither of these two lost his membership.

### ARIZONA LAWYERS AT NOGALES TODAY

NOGALES, Feb. 11.—Attorneys from various parts of Arizona had begun to arrive this evening for the annual convention here tomorrow of the State Bar association. About 75 visitors are expected.

The program for entertainment includes a banquet tomorrow night in a cafe in Nogales, Sonora.

## DRY LAW AGENTS CAN SEARCH AUTOS IN RECENT RULING

TUCSON, Feb. 11.—Prohibition enforcement officers have the right to search and seize automobiles on the public highway, suspected of containing liquor, without being armed with a search warrant, according to a decision recently handed down by the United States district court in Los Angeles.

Attention to this decision was directed last night by Federal Prohibition Director M. E. Cassidy on his arrival from Phoenix.

The court held that streams of machines were constantly coming across the Mexican border bringing liquor into the United States, and if they could not be seized without warrant they could not be seized at all, as a search warrant, under the law, can be obtained only upon an affidavit showing that such automobile had intoxicating liquor in it. Such an affidavit could not be made on information and belief, and to say that under these circumstances a search and seizure could not be made would be to declare the eighteenth amendment still-born.

There is no legislation by congress upon the subject of search and seizure except as specified in section 6 of the act of November 23, 1921, relating to the search of private dwellings, and the court must in each individual case determine as a judicial question whether or not the search and seizure of an automobile is un-

## Cochise Bankers Meet In Douglas To Discuss Law

Secretary L. G. Fahnestock, of Tombstone, of the Cochise County Bankers' Association, has notified all members of the association that a meeting will be held in Douglas on Tuesday afternoon. The purpose of the session is to discuss the proposed banking code to be introduced at the special session of the legislature with the idea in view of assisting the lawmakers in giving the state a sound and one of the best banking codes in the union. F. H. Fisher, of Douglas, president of the organization, issued the call.

### JURY REPORTS WEDNESDAY MORNING

Through the press of the county, Judge James this afternoon asked that all jurors who had been excused this week to report in court in Tombstone Monday morning at 9:30, need not report until Wednesday morning at the same hour. The continuance is caused by the case being set for Monday having been continued for the term, while Tuesday being Admission, is a legal holiday. The case of the State vs. Ernest and John Keaby, which has been on all week, will not be concluded until Monday, the defense not having concluded introduction of testimony up to a late hour this afternoon, six witnesses having been put on the stand today.

### BIG ROAD APPROPRIATION

NOGALES, Ariz., Feb. 10.—A ten million dollar appropriation has been passed by the Mexican congress for good roads in Mexico, according to Congressman G. P. Serrano of Sonora who left here this afternoon for Mexico City.

## KEATON SAYS HE GAVE MONEY TO MRS. HATTIE LUKE

TUCSON, Feb. 10.—Matt Keaton, now serving a five-year sentence in the federal penitentiary at Leavenworth, Kans., received \$10,000 of the government's money from Lon R. Bailey, former postmaster at Bisbee, now also in Leavenworth, and handed half of it to Mrs. Hattie A. Luke, Keaton yesterday told the federal jury that is trying Mrs. Luke on a charge of receiving money stolen from the Bisbee postoffice last year.

Keaton was the only witness put on the stand yesterday. He said that Bailey gave him the money on the night of April 3, and that he buried it. Later that night, Keaton testified, he returned to the postoffice, tied Bailey to a chair, gagged him and gave him a severe beating. The witness said that he later exhumed the money and gave half to Mrs. Luke, reburying the half that he retained. Keaton afterward pointed out to officers the place where he had buried his half of the spoils, but the half he says he gave to Mrs. Luke has never been recovered.

United States Attorney John A. Flynn and his two assistants, Col. John H. Martin of Tucson and John H. Langstone of Phoenix, are conducting the prosecution. Mrs. Luke is being defended by John L. Van Buskirk of Tucson, W. C. Gilmore, of Douglas and J. L. Winters of Bisbee.

## Capture Negro Deserter Wanted in Murder Assault

NOGALES, Ariz., Feb. 10.—Jesse E. Anderson, one of the two Fort Huachuca troopers wanted in connection with the shooting of two soldiers at Fort Huachuca several weeks ago, was captured in Nogales yesterday by Merchant Policeman George Wiese.

Anderson was found hiding in a box car and when taken to the police station, identification was made by a member of the Twenty-fifth Infantry, in charge of desertion records. Anderson later confessed that he participated in the shooting.

The two troopers, following the shooting, deserted from Huachuca.

## CLAIM GANG MAKES SMALL TOTS STEAL UNDER A THREAT

DOUGLAS, Feb. 11.—The latest holdup gang in Douglas, is a band of youthful Mexicans under a leader 8 years old, who have been operating at the Clawson school, and terrorizing American boys smaller than themselves, threatening them if they did not pay to their gang a tribute of pennies, nickels, dimes, pencils or chalk, they would "lick" them.

Parents of several of the children at Clawson school have noticed that their young sons were constantly wanting pennies or new pencils.

Especially pennies and nickels were in demand.

A father of one of the American boys who was paying ransom became suspicious of his son's constant demand for money and pencils, and took him to task for it. The little fellow cried and told his father a story of how larger Mexican boys were making him and other youngsters pay their money or pencils every day, upon threats of a beating.

The father told the boy he must not be a coward but must go and lick as many of the bullies as he could.

He cleaned up three of "the gang" at school, but they caught him and gave him a beating which was severe. This occurrence opened the whole story and teachers found out that a system of extortion had been in progress for some time.

The "bandits," as they styled themselves, had even compelled younger boys to steal for them when they had no other way to pay tribute.

The amateur Jesse James, and Bob Younger outfit has been disbanded and small boys will no longer go in fear and trembling to school.

### ESTIMATED COST OF ARIZONA IRRIGATION PROJECT \$7,234,600

WASHINGTON, Feb. 10.—An estimate that it would cost \$7,234,600 to install an irrigation system that would reclaim 104,000 acres of land in the Colorado river Indian reservation Arizona-California was transmitted to congress yesterday by Secretary Fall. Expected decline in the cost of labor and materials, the secretary said in a letter to Speaker Gillett, would sharply reduce the total expenditures.

### R. E. MARTIN IS KILLED BY GAS IN FAMILY WELL

PRESCOTT, Feb. 10.—R. E. Martin, brother of W. Jeff Martin, prominent business man of Canyon, died last Thursday as a result of being gassed in a well he had recently completed at his Canyon home.

## BIG BOOZE HAUL MADE BY SHERIFF

**OVER 50 GALLONS OF WHITE MULE AND TWO LARGE STILLS AND OTHER PARAPHERNALIA CAPTURED AT BISBEE YESTERDAY BY SHERIFF HOOD AND DEPUTIES IN RAID.**

As a result of a raid made on the Brooks garage and an apartment house on Naco road just out of the limits of Bisbee yesterday afternoon by Sheriff Joe Hood and Deputies Gipson, Kenney and Billie Ryan, Jas. L. Brooks was placed under arrest on a charge of operating two stills and about 50 gallons of alleged "white mule" confiscated with the two stills.

On Wednesday night officers claim to have detected "home brew" odors near the building. They secured a search warrant from Judge Craig. In one of the rooms upstairs they found two 30-gallon stills running with the fires burning under them and the liquor dripping out of the coils into a barrel. The officers put out the fires and dismantled the stills and found eight barrels of mash, which they poured down the sewer. They also found two kegs of the finished product.

After they had brought this part of the outfit to the justice court they went back for a further search and, in the room occupied by Brooks they found 22 one-gallon jugs filled with the product of the stills. All of the evidence was brought to Tombstone by Sheriff Hood. An information was filed by county Attorney Ross late in the afternoon and a bench warrant was issued for Brooks.

Brooks was arrested about two years ago on a charge of violation of the Volstead Act and was tried and convicted in the Federal court at Tucson but the case was appealed and the appeal is still pending. He has been out on bond pending action on the appeal.

Brooks was not in the building at the time the officers made the raid and was not arrested until a late hour last evening.

The haul is said to be one of the largest made since the dry law went into effect, while it is also reported that there is belief in some circles that Brooks has been engaged in the manufacture of liquor since the advent of prohibition.

### MARRIAGE LICENSES.

The following marriage licenses were issued out of the office of J. E. James, clerk of the superior court, during the past week:

Walter Dillman and Inez Telles, of Hereford.

Jeff D. Fennell and F. E. Callison, of Bisbee.

Andy M. Edwards, Jacksonville, Fla., and Frances Heard, San Antonio, Texas.

Robt. G. Weber and Bertha Pratt, of Douglas.

Reyes Sandoval and Elvina Samboza, of Bisbee.

Kenneth Mackay and Hulda Mackay, both of Bisbee.

### MANY WANT RECOGNITION

NOGALES, Ariz., Feb. 10.—Legislatures of a score of states having a total population of forty-three million persons, have passed resolutions urging recognition of the United States of the Oregon government in Mexico. Senator John Schleimer, of Santa Cruz county asserted today on his return from a several months' tour in behalf of such recognition.